

## **REMARKS**

### ***Status of the Claims***

The final Office Action mailed on November 14, 2007 addresses claims 1-3, 5, and 7-9. Reconsideration is respectfully requested based on the following remarks.

### ***Amendments to the Claims***

Claim 2 is cancelled. Independent claim 1 is amended to include the subject matter of cancelled claim 2, and in particular to recite that the cross-pin comprises a biocompatible material. Claim 1 is also amended to delete the recitation that the interior tunnel extends axially and to recite a guide wire seated in the axial trough and extending through the interior tunnel and the guide wire opening. Support for this amendment can be found throughout the specification, for example in paragraph [0019]. Claim 3 is amended to depend from claim 1 in light of the cancellation of claim 2. No new matter is added.

### ***Rejections Pursuant to 35 U.S.C. §102***

#### **U.S. Patent No. 5,480,403**

Claims 1, 3, 5, and 7-9 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,480,403 of Lee et al. ("Lee"). Applicant respectfully disagrees.

Independent claim 1 recites a cross-pin including an elongated member having a proximal end, a distal end, a longitudinal axis, and an outer surface. A nose member extends out from the distal end of the elongated member and has a proximal end and a distal end. An axial trough in the elongated member extends through the outer surface and has a proximal end, a distal end, a bottom, opposed ends, an open top, and a passageway. The cross-pin also includes a guide wire opening in the distal end of the nose member and an interior tunnel having a passage with an enclosed circular perimeter in the nose member extending from the guide wire opening and extending into the trough such that the passage is in communication with the guide wire opening and the trough. A guide wire is seated in the axial trough and extends through the interior tunnel and the guide wire opening.

Lee does not disclose a guide wire opening in the *distal end* of the nose member. Rather, the aperture 133 of Lee extends between two sidewalls of the distal tip 131. No portion is located in the distal end. Lee also fails to teach a guide wire seated in the axial trough and extending through the interior tunnel and the guide wire opening. The aperture 133 and the slot 135 seat a suture. Lee does not teach or even suggest the use of a *guide wire*. Accordingly, independent claim 1, as well as claims 3, 5, and 7-9 which depend therefrom, distinguish over Lee and represent allowable subject matter.

U.S. Patent No. 6,579,295

Claims 1, 3, 5, and 7-9 are rejected pursuant to 35 U.S.C. §102(c) as being anticipated by U.S. Patent No. 6,579,295 of Supinski (“Supinski”). Applicant respectfully disagrees.

Supinski also does not disclose a guide wire seated in an axial trough and extending through an interior tunnel and a guide wire opening in a distal end of a nose member. Supinski discloses a screw 100 having a small guide pin 110 attached to its leading end. The guide pin 110 is not a guide wire as this term is generally understood by a person having ordinary skill in the art. Furthermore, the guide pin 110 is not seated in an axial trough 82. Rather, the screw 100 is advanced through the trough 82 such that threads on the screw 100 engage threads 84 on the trough 82. The guide pin 110 is a rigid member extending from the screw’s end such that, when the screw 100 is advanced through the trough 82, the guide pin 110 extends into a guide pin hole 88 in the anchor 80. The guide pin 110 thus never sits within the trough 82 but rather is always spaced a distance away from the trough 82 to allow it to align with and enter the tunnel 88. (See Figures 4 and 7.)

Accordingly, independent claim 1, as well as claims 3, 5, and 7-9 which depend therefrom, distinguish over Supinski and represent allowable subject matter.

***Conclusion***

Applicant submits that all claims are in condition for allowance for at least the reasons discussed above, and allowance thereof is respectfully requested. Applicant’s amendment of the

claims does not constitute a concession that the claims are not allowable in their unamended form. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

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Respectfully submitted,

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